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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4143 of 1990

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

1 to 5 NO

GOVINDBHAI M BHAVSAR

Versus

G E B

Appearance:

1. Special Civil Application No. 4143 of 1990

MR MUKESH H RATHOD for Petitioner No. 1

RULE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 22/12/2004

ORAL JUDGEMENT

1. By this petition filed exclusively under Article 227 of the Constitution, the petitioner has challenged the award dated 23.7.1987 of the Industrial Tribunal,

Ahmedabad in Reference (IT) No.278 of 1983, whereby the demand raised by the trade union on behalf of the petitioner was rejected on the ground of long delay and it being the question of seniority raised after delay of 13 years after taking advantage of seniority at one place. The impugned award was based on the judgment of the Supreme Court in MALCOLM LAWRENCE CECIL D'SOUZA v. UNION OF INDIA reported in 1975-II-LLN-11 which was directly applicable in the facts of the case. Even the aforesaid award dated 23.7.1987, which was published in the Official Gazette on 24.12.1987, was sought to be challenged in this Court by filing the petition in February, 1990. The petition appears to have been first moved for admission in September 1990 and, in April 1991, a Division Bench of this Court has passed order as under:-

> "Leave to explain delay in filing this petition by filing appropriate amendment. For that purpose, amendment to the petition granted. Notice returnable on 24.6.1991"

After the above order, no amendment appears to have been proposed or carried out in the petition and no explanation for delay is forthcoming even at this stage of final hearing after about 14 years of pendency of the petition.

2. The above record of facts is enough to justify summary dismissal of the petition even as no ground to take a different view on merits could also be made out. The petition is accordingly rejected and Rule is discharged with no order as to costs.

Sd/-

(D.H.Waghela,J.)

(KMG Thilake)